

## § 10.1028

## 19 CFR Ch. I (4–1–12 Edition)

with applicable customs measures affecting trade in textile or apparel goods within 12 months after its request for a verification, CBP, if directed by the President, may take appropriate action, which may include:

(i) Denying the application of preferential tariff treatment to any textile or apparel good exported or produced by the enterprise subject to the verification if CBP determines that the enterprise has provided insufficient or incorrect information with respect to its obligations under the applicable customs laws, regulations, and procedures regarding trade in textile and apparel goods; and

(ii) Denying entry to any textile or apparel good exported or produced by the enterprise subject to the verification, if CBP determines that the enterprise has provided insufficient or incorrect information with respect to its obligations under the applicable customs laws, regulations, and procedures regarding trade in textile and apparel goods.

(c) *Denial of permission to conduct a verification.* If an enterprise does not consent to a verification under this section, CBP may deny preferential tariff treatment or deny entry to similar goods exported or produced by the enterprise that would have been the subject of the verification.

(d) *Action by U.S. officials in conducting a verification abroad.* U.S. officials may undertake or assist in a verification under this section by conducting visits in the territory of Korea, along with the competent authorities of Korea, to the premises of an exporter, producer, or any other enterprise involved in the movement of textile or apparel goods from Korea to the United States.

(e) *Continuation of appropriate action.* Before taking any action under paragraph (a) or (b), CBP will notify the government of the Republic of Korea. CBP may continue to take appropriate action under paragraph (a) or (b) of this section until it receives information sufficient to enable it to make the determination described in paragraphs (a) and (b) of this section. CBP may make public the identity of a person that CBP has determined to be engaged in circumvention as provided under

this section or that has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods.

### § 10.1028 Issuance of negative origin determinations.

If, as a result of an origin verification initiated under this subpart, CBP determines that a claim for preferential tariff treatment under this subpart should be denied, it will issue a determination in writing or via an authorized electronic data interchange system to the importer that sets forth the following:

(a) A description of the good that was the subject of the verification together with the identifying numbers and dates of the import documents pertaining to the good;

(b) A statement setting forth the findings of fact made in connection with the verification and upon which the determination is based; and

(c) With specific reference to the rules applicable to originating goods as set forth in General Note 33, HTSUS, and in §§ 10.1013 through 10.1025 of this subpart, the legal basis for the determination.

### § 10.1029 Repeated false or unsupported preference claims.

Where verification or other information reveals a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the UKFTA rules of origin set forth in General Note 33, HTSUS, CBP may suspend preferential tariff treatment under the UKFTA to entries of identical goods covered by subsequent statements, declarations, or certifications by that importer, exporter, or producer until CBP determines that representations of that person are in conformity with General Note 33, HTSUS.

## PENALTIES

### § 10.1030 General.

Except as otherwise provided in this subpart, all criminal, civil, or administrative penalties which may be imposed on U.S. importers, exporters, and producers for violations of the customs and related U.S. laws and regulations

will also apply to U.S. importers, exporters, and producers for violations of the U.S. laws and regulations relating to the UKFTA.

**§ 10.1031 Corrected claim or certification by importers.**

An importer who makes a corrected claim under § 10.1003(c) of this subpart will not be subject to civil or administrative penalties under 19 U.S.C. 1592 for having made an incorrect claim or having submitted an incorrect certification, provided that the corrected claim is promptly and voluntarily made.

**§ 10.1032 Corrected certification by U.S. exporters or producers.**

Civil or administrative penalties provided for under 19 U.S.C. 1592 will not be imposed on an exporter or producer in the United States who promptly and voluntarily provides written notification pursuant to § 10.1009(b) with respect to the making of an incorrect certification.

**§ 10.1033 Framework for correcting claims or certifications.**

(a) *“Promptly and voluntarily” defined.* Except as provided for in paragraph (b) of this section, for purposes of this subpart, the making of a corrected claim or certification by an importer or the providing of written notification of an incorrect certification by an exporter or producer in the United States will be deemed to have been done promptly and voluntarily if:

(1)(i) Done before the commencement of a formal investigation, within the meaning of § 162.74(g) of this chapter; or

(ii) Done before any of the events specified in § 162.74(i) of this chapter have occurred; or

(iii) Done within 30 days after the importer, exporter, or producer initially becomes aware that the claim or certification is incorrect; and

(2) Accompanied by a statement setting forth the information specified in paragraph (c) of this section; and

(3) In the case of a corrected claim or certification by an importer, accompanied or followed by a tender of any actual loss of duties and merchandise processing fees, if applicable, in accordance with paragraph (d) of this section.

(b) *Exception in cases involving fraud or subsequent incorrect claims.* (1) *Fraud.* Notwithstanding paragraph (a) of this section, a person who acted fraudulently in making an incorrect claim or certification may not make a voluntary correction of that claim or certification. For purposes of this paragraph, the term “fraud” will have the meaning set forth in paragraph (C)(3) of appendix B to part 171 of this chapter.

(2) *Subsequent incorrect claims.* An importer who makes one or more incorrect claims after becoming aware that a claim involving the same merchandise and circumstances is invalid may not make a voluntary correction of the subsequent claims pursuant to paragraph (a) of this section.

(c) *Statement.* For purposes of this subpart, each corrected claim or certification must be accompanied by a statement, submitted in writing or via an authorized electronic data interchange system, which:

(1) Identifies the class or kind of good to which the incorrect claim or certification relates;

(2) In the case of a corrected claim or certification by an importer, identifies each affected import transaction, including each port of importation and the approximate date of each importation;

(3) Specifies the nature of the incorrect statements or omissions regarding the claim or certification; and

(4) Sets forth, to the best of the person’s knowledge, the true and accurate information or data which should have been covered by or provided in the claim or certification, and states that the person will provide any additional information or data which is unknown at the time of making the corrected claim or certification within 30 days or within any extension of that 30-day period as CBP may permit in order for the person to obtain the information or data.

(d) *Tender of actual loss of duties.* A U.S. importer who makes a corrected claim must tender any actual loss of duties at the time of making the corrected claim, or within 30 days thereafter, or within any extension of that 30-day period as CBP may allow in